

97TH CONGRESS  
1ST SESSION

# H. R. 5211

To amend title 18, United States Code, to establish criminal penalties applicable to United States citizens who are employed in a military or intelligence capacity by certain foreign governments or international terrorist groups, to be named by the President, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 1981

Mr. RINALDO introduced the following bill; which was referred to the Committee  
on the Judiciary

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## A BILL

To amend title 18, United States Code, to establish criminal penalties applicable to United States citizens who are employed in a military or intelligence capacity by certain foreign governments or international terrorist groups, to be named by the President, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "Anti-Terrorism and For-  
4 eign Mercenary Act".

5 SEC. 2. The Congress finds that—

1 (1) the growth in the size of armed forces and the  
2 proliferation of advanced weaponry around the world  
3 has empowered certain governments, groups, and fac-  
4 tions to pose new threats to the national security, for-  
5 eign relations, and foreign commerce interests of the  
6 United States;

7 (2) many of these governments, groups, and fac-  
8 tions lack the resources and capabilities to make effec-  
9 tive use of their armed forces and weaponry without  
10 the services and skills provided by citizens of other,  
11 more technologically advanced, countries, including the  
12 United States;

13 (3) citizens of the United States have provided  
14 such services and are likely to do so in the future; and

15 (4) in certain instances, such activities on the part  
16 of United States citizens have been, or will be, detri-  
17 mental to the national security, foreign relations, and  
18 foreign commerce interests of the United States.

19 SEC. 3. (a) Chapter 45 of title 18, United States Code,  
20 is amended by adding at the end the following new section:

21 "§ 971. Military and intelligence assistance to certain for-  
22 eign countries and terrorist groups

23 "(a) It shall be unlawful for any citizen of the United  
24 States to knowingly and willfully perform any of the follow-  
25 ing acts:

1       “(1) Serve in the armed forces or any intelligence  
2       agency of any foreign government, faction, or interna-  
3       tional terrorist group which is named in a proclamation  
4       in effect under subsection (c) of this section as a uni-  
5       formed member of such armed force or agency.

6       “(2) Serve directly or indirectly in the armed  
7       forces or any intelligence agency of, or in any other  
8       military or intelligence capacity for, any such govern-  
9       ment, faction, or group under any service or employ-  
10      ment agreement between any person and such govern-  
11      ment, faction, or group.

12      “(3) Provide training, in any capacity described in  
13      paragraph (1) or (2) of this subsection, to the armed  
14      forces or any intelligence agency of any such govern-  
15      ment, faction, or group or to any person otherwise  
16      serving, or training to serve, the armed forces or any  
17      intelligence agency of, or in any other military or intel-  
18      ligence capacity for, any such government, faction, or  
19      group.

20      “(4) Provide any logistical, mechanical, mainte-  
21      nance, or other similar support service to the armed  
22      forces or any intelligence agency of any such govern-  
23      ment, faction, or group under any service or employ-  
24      ment agreement between any person and such govern-  
25      ment, faction, or group.

1           “(5) Conduct any research, manufacturing, or  
2 construction project, under any service or employment  
3 agreement between any person and any such govern-  
4 ment, faction, or group, which is directly connected  
5 with the military or intelligence functions of such gov-  
6 ernment, faction, or group.

7           “(6) Recruit any citizen of the United States or  
8 the national of any other foreign country to serve in  
9 any capacity described in paragraphs (1) or (2) of this  
10 subsection, to provide any training described in para-  
11 graph (3), to provide any service described in para-  
12 graph (4), or to conduct any project described in para-  
13 graph (5).

14           “(b)(1) Any citizen of the United States who commits,  
15 or who knowingly and willfully attempts to commit, any un-  
16 lawful act described in subsection (a) of this section, or who  
17 goes beyond the jurisdiction of the United States with the  
18 intent to commit any such act, shall be fined not more than  
19 three times the total compensation received by such citizen  
20 for the commission of such unlawful act or \$25,000, which-  
21 ever is greater, or imprisoned for not more than ten years, or  
22 both, for each such offense.

23           “(2)(A) Any person who, being an officer, director, or  
24 agent of any business entity described in subparagraph (B) of  
25 this paragraph, commits, or knowingly and willfully attempts

1 to commit, any unlawful act described in subsection (a) of this  
2 section using such business entity shall be fined not more  
3 than three times the total compensation received by such  
4 entity for the commission of such unlawful act or \$25,000,  
5 whichever is greater, or imprisoned for not more than ten  
6 years, or both, for each such offense.

7       “(B) For purposes of this paragraph, the term ‘business  
8 entity’ means any partnership, company, or association com-  
9 posed in whole or in part of citizens of the United States, or  
10 any corporation organized under the laws of the United  
11 States, any territory or insular possession of the United  
12 States, any State, or the District of Columbia.

13       “(c)(1) For the purposes of this section, whenever the  
14 President finds that—

15       “(A) the direct or indirect employment of a citizen  
16 of the United States by a foreign government, or a fac-  
17 tion within a foreign country, to perform any task con-  
18 nected with the military affairs or intelligence functions  
19 of such government or faction; or

20       “(B) the direct or indirect involvement of any citi-  
21 zen of the United States in any commercial enterprise  
22 or transaction which provides any arms, ammunition,  
23 implements of war, or any other goods or supplies with  
24 military or intelligence applications to a foreign gov-  
25 ernment or a faction within a foreign country,

1 is or would be detrimental to the national security, foreign  
2 relations, or foreign commerce interests of the United States,  
3 the President may issue a proclamation naming each foreign  
4 government or each faction within a foreign country for  
5 which such a finding has been made.

6       “(2) For the purposes of this section, whenever the  
7 President finds that any group operating out of any foreign  
8 country, with or without the cooperation of the government  
9 of such country, is an international terrorist group and that—

10       “(A) the direct or indirect employment of a citizen  
11 of the United States by such group to perform any task  
12 connected with the military or intelligence functions of  
13 such group; or

14       “(B) the direct or indirect involvement of any citi-  
15 zen of the United States in any commercial enterprise  
16 or transaction which provides any arms, ammunition,  
17 implements of war, or any other goods or supplies with  
18 military or intelligence applications to such group,

19 is or would be detrimental to the national security, foreign  
20 relations, or foreign commerce interests of the United States,  
21 the President may issue a proclamation naming each group  
22 for which such findings have been made.

23       “(3) Any proclamation issued under paragraph (1) or (2)  
24 of this subsection shall—

25       “(A) be published in the Federal Register; and

1           “(B) become effective at the end of the sixty-day  
2           period beginning on the date of publication in the Fed-  
3           eral Register, unless the President finds that conditions  
4           exist which require such proclamation to take effect  
5           immediately upon publication in the Federal Register  
6           in which case the proclamation shall—

7                   “(i) contain notice of such a finding; and

8                   “(ii) provide that it shall be effective immedi-  
9           ately upon such publication.

10          “(4) If the President determines that the conditions  
11          which were the basis for any proclamation issued under this  
12          section have ceased to exist with respect to any government,  
13          faction, or terrorist group named in such proclamation, he  
14          shall revoke such proclamation with respect to such govern-  
15          ment, faction, or group, except that such revocation shall not  
16          affect any action or proceeding based on any act committed  
17          prior to the date of such revocation or any penalties that  
18          were incurred prior to such date.

19          “(d) No question concerning the validity of any procla-  
20          mation issued under subsection (c) of this section may be  
21          raised by any defendant as a defense in or as an objection to  
22          any trial under this section if such proclamation was pub-  
23          lished in the Federal Register in accordance with subsection  
24          (c)(3) of this section.

25          “(e) For the purposes of this section—

1           “(1) the term ‘citizen’ shall include any individual  
2           owing allegiance to the United States, any partnership,  
3           company, or association composed in whole or in part  
4           of such individuals, and any corporation organized  
5           under the laws of the United States, any territory or  
6           insular possession of the United States, any State, or  
7           the District of Columbia;

8           “(2) the term ‘foreign government’ has the mean-  
9           ing given it in section 1116(b)(2) of this title;

10           “(3) the term ‘employment or service agreement’  
11           means any agreement to provide any service, whether  
12           or not any compensation is paid or any other consider-  
13           ation is given for such service, and includes any direct,  
14           indirect, express, or implied contract or subcontract;

15           “(4) the term ‘armed forces’ means any military  
16           entity which is controlled by any foreign government,  
17           faction, or international terrorist group named in a  
18           proclamation in effect under subsection (c) of this sec-  
19           tion including any regular, irregular, paramilitary,  
20           guerrilla or police force;

21           “(5) the term ‘intelligence agency’ shall include  
22           any entity which is controlled by any foreign govern-  
23           ment, faction, or international terrorist group named in  
24           a proclamation in effect under such subsection and per-  
25           forms any intelligence function;



1           “(6) the term ‘faction’ includes any political party,  
2 terrorist group, body of insurgents, or other group  
3 which seeks to overthrow the government of, become  
4 the government of, or otherwise assert control over  
5 any foreign country or any territory, possession, de-  
6 partment, district, province, or other political subdivi-  
7 sion of any such country through force of arms or ter-  
8 rorist activity;

9           “(7) the term ‘group’ means an association of per-  
10 sons whether or not a legal entity;

11           “(8) the term ‘terrorist group’ means a group  
12 which engages in a pattern of terrorist activity;

13           “(9) the term ‘terrorist activity’ means any feloni-  
14 ous, violent act, including murder, aggravated assault,  
15 kidnaping, robbery, extortion, arson, or destruction of  
16 property, committed for political purposes; and

17           “(10) the term ‘international terrorist group’  
18 means a terrorist group whose terrorist activity tran-  
19 scends national boundaries or whose intended victim is  
20 an official of a foreign government or whose intended  
21 target is the property of such a government.”.

22           (b) The analysis for such chapter is amended by adding  
23 after the item relating to section 970 the following new item:

“971. Military and intelligence assistance to certain foreign countries and terrorist groups.”.

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1       SEC. 4. Section 3238 of title 18, United States Code, is  
2 amended by—

3           (1) striking out "The" and inserting in lieu there-  
4 of "(a) Subject to subsection (b), the"; and

5           (2) adding at the end the following new subsec-  
6 tion:

7       "(b) The trial of any offense under section 971 of this  
8 title which is committed out of the jurisdiction of any particu-  
9 lar State or district may be in any district. Nothing contained  
10 in this subsection may be construed to restrict any right of a  
11 defendant under any rule in effect under section 3771 of this  
12 title."

13       SEC. 5. Section 11 of such title is amended by inserting  
14 "971," after "sections 112, 878, 970,".

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